

21. The provisions of sections 2 to 15 and 18 to 20 apply only to calls for tenders for which a notice is published as of 1 June 2016.

22. This Regulation comes into force on 1 June 2016.

102566

Gouvernement du Québec

O.C. 294-2016, 13 April 2016

An Act respecting contracting by public bodies (chapter C-65.1)

Construction contracts of public bodies — Amendment

Regulation to amend the Regulation respecting construction contracts of public bodies

WHEREAS, under paragraphs 1, 3 and 6 of section 23 of the Act respecting contracting by public bodies (chapter C-65.1), the Government may make regulations on the matters set forth therein with respect to construction contracts of public bodies;

WHEREAS the Government made the Regulation respecting construction contracts of public bodies (chapter C-65.1, r. 5), which contains, in particular, provisions regarding the soliciting of tenders through a public call for tenders to award a construction contract of a public body;

WHEREAS it is expedient to amend the Regulation;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation to amend the Regulation respecting construction contracts of public bodies was published in Part 2 of the *Gazette officielle du Québec* of 11 November 2015 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS the 45-day period has expired;

WHEREAS, in accordance with section 23 of the Act respecting contracting by public bodies, the Conseil du trésor recommends that the Regulation be made;

WHEREAS it is expedient to make the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister responsible for Government Administration and Ongoing Program Review and Chair of the Conseil du trésor:

THAT the Regulation to amend the Regulation respecting construction contracts of public bodies, attached to this Order in Council, be made.

JUAN ROBERTO IGLESIAS,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting construction contracts of public bodies

An Act respecting contracting by public bodies (chapter C-65.1, s. 23, pars. 1, 3 and 6)

1. The Regulation respecting construction contracts of public bodies (chapter C-65.1, r. 5) is amended in section 4

(1) by inserting the following after subparagraph 5.1 of the second paragraph:

“(5.2) if applicable, an indication that tenders may be transmitted electronically and that such transmission may only be done through the electronic tendering system;”;

(2) by inserting “offered” after “required,” in the third paragraph.

2. Section 5 is amended by striking out subparagraph 2 of the first paragraph, as well as the second paragraph.

3. Section 7 is amended

(1) by replacing the first paragraph by the following:

“7. Compliance requirements must specify the cases that will entail the automatic rejection of a tender, namely

(1) the closing date and time for receiving tenders have not been complied with and, in the case of a tender sent in paper form, non-compliance with the place designated for its reception;

(2) the security provided does not comply with the form and conditions required;

(3) the absence of the document evidencing the tenderer’s undertaking or of the document related to the tendered price or, in the case of a tender sent in paper form, the required signature of an authorized person is missing on any of those documents;

(4) the tender is conditional or restrictive;

(5) in the case of a tender transmitted electronically, the fact that the tender was not transmitted through the electronic tendering system or a tender that is unintelligible, infected or otherwise illegible once its integrity has been established by the electronic tendering system; and

(6) any other compliance requirement stated in the tender documents as entailing the automatic rejection of a tender has not been complied with.”;

(2) by inserting the following at the end of the second paragraph:

“For the purposes of this paragraph, transmitting the same tender by electronic means and on paper form is considered as the filing of several tenders.”.

4. The following is inserted after section 7:

“**7.0.1.** Compliance requirements must also indicate that, in the case of a tender transmitted electronically whose integrity has not been ascertained, failure to remedy that irregularity within 2 business days following the default notice sent by the public body entails rejection of the tender.

A tender transmitted electronically within the period set in the first paragraph to remedy the faulty integrity of a tender sent previously is substituted for the previous tender as soon as its integrity is ascertained by the public body. That tender is then deemed to have been transmitted before the tender closing date and time.”.

5. Section 9 is amended by adding the following paragraph at the end:

“Provided that it is specified in the tender documents, the public body may reserve the right to not consider a request for details made by a contractor if the request is sent to the public body less than 2 business days before the tender closing date and time.”.

6. The following is inserted after section 9.1:

“**9.2.** A tender may be transmitted electronically only through the electronic tendering system.”.

7. The following is inserted after section 13:

“**13.1.** If a tender is transmitted electronically, the public body must, at the opening of tenders, ascertain the integrity of the tender through the electronic tendering system.”.

8. Section 14 is amended

(1) by replacing “à l’endroit prévu, à la date” in the first paragraph of the French text by “à l’endroit prévu ainsi qu’à la date”;

(2) by replacing the second and third paragraphs by the following:

“At the public opening, the public body discloses the names of all the contractors, including the name of any contractor who transmitted electronically a tender whose integrity has not been ascertained, although such information is subject to verification.

The public body also discloses, subject to the same verification, the respective total price of the tenders. Despite the foregoing, if the integrity of at least one tender transmitted electronically could not be ascertained at the opening, such disclosure takes place instead at the time of the publication provided for in the fourth paragraph.

The public body publishes, within 4 business days, the result of the public opening in the electronic tendering system.”.

9. Section 18 is amended by inserting “at the end of the tendering process,” before “only one” in subparagraph 1 of the second paragraph.

10. Section 30 is replaced by the following:

“**30.** At the public opening of tenders as provided for in section 14, for a contract awarded following quality evaluation, only the name of the contractors, including the name of any contractor who transmitted electronically a tender whose integrity has not been ascertained, is then disclosed and the result of the opening is published in accordance with the fourth paragraph of that section.”.

11. Section 32 is amended

(1) by replacing “within 15 days after awarding the contract” in the first paragraph by “for each of the stages including such evaluation in which the tenderer participated. Such communication takes place within 15 days of the contract awarding or at the time of sending to the tenderers retained after the first stage an invitation to participate in the second stage, as the case may be.”;

(2) by inserting “as the case may be, the names of the tenderers qualified for the second stage or” before “the name” in subparagraph 2 of the second paragraph;

(3) by inserting “as the case may be, the names of the tenderers qualified for the second stage or” before “the name” in subparagraph 3 of the third paragraph;

(4) by adding the following paragraph at the end:

“Moreover, on the written request of a tenderer sent within 30 days after the communication made under the first paragraph, the public body must present to the tenderer the results of the tender evaluation for each criterion used to evaluate the quality, and briefly set out the reasons justifying the fact that the tender was not accepted. That feedback must be provided, as the case may be, within 30 days after the date of receipt of the tenderer’s request if the request was sent after the awarding of the contract, or within 30 days after the awarding of the contract if the request was sent before that date.”

12. Section 42.2 is amended by replacing subparagraph 4 of the third paragraph by the following:

“(4) in the case of a contract referred to in the second paragraph, the other information provided for in paragraphs 1 and 3 to 5 of section 42.”

13. The heading of Chapter VII is amended by replacing “CONDITIONS” by “TERMS”.

TRANSITIONAL AND FINAL

14. Despite the second paragraph of section 7 of the Regulation respecting construction contracts of public bodies (chapter C-65.1, r. 5), as amended by paragraph 2 of section 3 of this Regulation, the transmission, until 31 May 2019, of a same tender electronically and in paper form does not amount to filing more than one tender.

15. Until 31 May 2019, when a contractor transmits, under a call for tenders, a same tender electronically and in paper form, the tender transmitted in paper form must be considered by the public body only if the public body cannot ascertain the integrity of the tender transmitted electronically at the opening of tenders, being understood that section 7.0.1 of the Regulation respecting construction contracts of public bodies, made by section 4 of this Regulation, does not apply in such case.

16. Until 31 May 2019, the second sentence of the third paragraph of section 14 of the Regulation respecting construction contracts of public bodies, as amended by paragraph 2 of section 8 of this Regulation, applies only when a tender whose integrity could not be ascertained was not also transmitted in paper form.

17. The provisions of sections 1 to 11 and 14 to 16 apply only to calls for tenders for which a notice is published as of 1 June 2016.

18. This Regulation comes into force on 1 June 2016.
102567

Gouvernement du Québec

O.C. 295-2016, 13 April 2016

An Act respecting contracting by public bodies
(chapter C-65.1)

Contracting by public bodies in the field of information technologies

Regulation respecting contracting by public bodies in the field of information technologies

WHEREAS, under paragraphs 1, 3, 5 to 7, 14 and 15 of section 23 of the Act respecting contracting by public bodies (chapter C-65.1), the Government may make regulations on the matters set forth therein with respect to contracts of public bodies;

WHEREAS section 24.2 of the Act provides that the Minister of Revenue is responsible for the administration and carrying out of the regulatory provisions made under paragraphs 14 and 15 of section 23 of the Act if so provided in the regulation;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation respecting contracting by public bodies in the field of information technologies was published in Part 2 of the *Gazette officielle du Québec* of 11 November 2015 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS the 45-day period has expired;

WHEREAS, in accordance with section 23 of the Act respecting contracting by public bodies, the Conseil du trésor recommends that the Regulation be made;

WHEREAS it is expedient to make the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister responsible for Government Administration and Ongoing Program Review and Chair of the Conseil du trésor: